

FRANCHISE TAX BOARD
Fiscal Year 2004/05

Finance Letter

FL No. 5

Real Estate Withholding on Residents – AB 2065

Date: February 6, 2004

A. Nature of Request

The Franchise Tax Board (FTB) requests \$646,000 to make permanent 13 positions for fiscal year 2004/2005 in order to effectively administer the Real Estate Withholding on Residents statute. Last year, BCP #7, Real Estate Withholding on Residents (AB 2065, Chapter 488, Statutes of 2002) established these positions on a limited-term basis. These positions are due to expire June 30, 2004. The elimination of these positions delays and potentially risks losing \$157 million in annual revenue for the state of California.

B. Background/History

AB 2065 – Real Estate Withholding on Residents (Chapter 488, Statutes of 2002) amended Revenue and Taxation Code Section 18662, which authorized the FTB to require withholding on all individuals who sell California real estate, effective January 1, 2003. This bill projected to accelerate state revenue by \$225 million the first fiscal year with an additional \$10 million in subsequent fiscal years based on growth in real estate sales. To achieve the projected accelerated revenue, in FY 2003/04 FTB's budget was augmented by \$2.820 million and 56.2 PYs; 31 of these PYs were established on a limited term basis. These 31 positions were established on a limited term basis to allow time to validate workload resource needs and to verify the revenue that was expected to be generated as a result of the program. A year of cost and revenue actuals has validated the lucrative nature of the program and a need of 13 positions on a permanent basis. The 18 limited term positions not required are vacant and will be allowed to expire on June 30, 2004.

Actual revenue realized for the state of California for fiscal year 2002/03 was \$326 million. For the first six month of FY 2003/04 (July thru December) actual revenue received is \$458 million. FTB anticipates accelerated revenue to be approximately \$458 million during the months of January through June.

AB 2065 – Real Estate Withholding on Residents, expanded the withholding requirement to include real estate sales by **resident** taxpayers. This change was necessary to implement a new program to help taxpayers comply with the new withholding requirements. This legislation also increased existing workload activities for FTB such as, educating escrow offices/companies; answering pre-withholding phone calls; validating remittance documents; allocating the withholding to the sellers; validating the withholding amount when sellers claim withholding on their income tax returns; issuing notices when the withholding claimed on the tax return exceeds the amount available; and resolving the correspondence and telephone calls resulting from the notices.

C. State Level Considerations

By permanently establishing the requested resources in this Finance Letter, FTB will effectively administer the expanded withholding requirements brought forth by AB 2065. This Finance Letter fully supports FTB's Mission, Goals, and Objectives as outlined in FTB's Strategic Plan.

D. Justification

This request meets both the FTB Strategic Goal #2 of promoting fair and effective tax administration and Goal #4 of delivering efficient and high quality business results. FTB will be contributing to both goals by preventing incorrect notices from being issued and eliminating unnecessary phone contacts and thereby improving the level of compliance.

Approval of this request permanently establishes essential resources needed to continue processing AB 2065 workload activities in a timely and efficient manner. These resources ensure that remittances are posted to taxpayer accounts accurately and timely; remittances and documents are appropriately handled; and account resolution contacts received via telephone and correspondence are resolved timely.

If this request is not approved, the delay or potential revenue at risk for the state of California totals \$157 million per year.

E. Analysis of All Feasible Alternatives

Alternative #1 – Permanently augment FTB's budget by \$646,000 and 13 positions for FY 2004/2005 and thereafter to support this new mandated program.

This alternative allows FTB to effectively and efficiently administer the expansion of real estate withholding program and ensure FTB realizes the full anticipated revenue of \$460 million for the state of California.

Alternative #2 – Augment FTB's budget by \$646,000 and extend the 13 limited-term positions for two fiscal years to support this new mandatory program.

This proposal addresses the resource need for the next two fiscal years. However, to maintain the current level of operation for the program, it will be necessary to resubmit a future request to establish the positions on a permanent basis.

Alternative #3 – Allow the 13 limited-term positions to expire June 30, 2004. No funding approved.

The state of California risks approximately \$157 million in revenue if the positions and the funding are not permanently established in FTB's budget. Without the resources, FTB will not be able to support the critical functions associated with the AB 2065 mandate.

F. Timetable

Funding to be provided on July 1, 2004.

G. Recommendation

Alternative #1 is recommended. This alternative provides the resources necessary to effectively administer real estate withholding program and ensures revenue for the state of California.

STATE OF CALIFORNIA
FINANCE LETTER - COVER SHEET
FOR FISCAL YEAR 2004/05
DF-46 (REV 03/03)

Department of Finance
915 L Street
Sacramento, CA 95814
IMS Mail Code: A-15

| | | | |
|----------------------------|-----------------------------------|------------------|-----------------------------------|
| FL # 5 | PRIORITY NO | ORG CODE 1730 | DEPARTMENT Franchise Tax Board |
| PROGRAM 10 Tax Programs | ELEMENT 10 Personal Income Tax | COMPONENT | |

TITLE OF PROPOSED CHANGE:

Real Estate Withholding

SUMMARY OF PROPOSED CHANGE:

This proposal requests to establish as permanent 13 Real Estate Withholding positions that are due to expire on June 30, 2004.

| | | | |
|--|-------------------------------------|---|--|
| REQUIRES LEGISLATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | CODE SECTION(S) TO BE AMENDED/ADDED | BUDGET IMPACT-PROVIDE LIST AND MARK IF APPLICABLE <input type="checkbox"/> ONE-TIME COST <input type="checkbox"/> FULL-YEAR COSTS <input type="checkbox"/> FACILITIES/CAPITAL COSTS <input type="checkbox"/> FUTURE SAVINGS <input type="checkbox"/> REVENUE | |
|--|-------------------------------------|---|--|

| | | | |
|----------------------|------|-------------------|------|
| PREPARED BY: | DATE | REVIEWED BY: | DATE |
| PROGRAM ANALYST: | | | |
| DEPARTMENT DIRECTOR: | DATE | AGENCY SECRETARY: | DATE |

Pending Board Approval

IF PROPOSAL AFFECTS ANOTHER DEPARTMENT, DOES OTHER DEPARTMENT CONCUR WITH PROPOSAL? N/A

☐ YES ☐ NO

ATTACH COMMENTS OF AFFECTED DEPARTMENT SIGNED AND DATED BY THE DEPARTMENT DIRECTOR OR DESIGNEE.

FOR INFORMATION TECHNOLOGY REQUESTS, SPECIFY THE DATE SPECIAL PROJECT REPORT (SPR) OR FEASIBILITY STUDY REPORT (FSR) WAS APPROVED BY THE DEPARTMENT OF FINANCE.

| | | | |
|------|-----------|------------------------------|---------------------------------|
| DATE | PROJECT # | FSR <input type="checkbox"/> | OR SPR <input type="checkbox"/> |
|------|-----------|------------------------------|---------------------------------|

DOF ANALYST USE
(ADDITIONAL REVIEW)

| | | | | | | | | | |
|----------------|--------------------------|------|--------------------------|------|--------------------------|------|--------------------------|----------|--------------------------|
| CAPITAL OUTLAY | <input type="checkbox"/> | TIRU | <input type="checkbox"/> | FSCU | <input type="checkbox"/> | OSAE | <input type="checkbox"/> | CALSTARS | <input type="checkbox"/> |
|----------------|--------------------------|------|--------------------------|------|--------------------------|------|--------------------------|----------|--------------------------|

| Operating Expenses and Equipment | | | |
|---|-----------|----------|------------------|
| General Expenses /1 | \$ | 0 | \$ 14,000 |
| Printing /2 | | 0 | 1,000 |
| Communications /3 | | 0 | 12,000 |
| Postage /4 | | 0 | 0 |
| Travel-In-State /5 | | 0 | 0 |
| Travel Out-of-State /6 | | 0 | 0 |
| Training /7 | | 0 | 0 |
| Facilities Operations /8 | | 0 | 4,000 |
| Utilities | | 0 | 0 |
| Cons & Prof Svs - Interdept'l | | 0 | 0 |
| Cons & Prof Svs - External | | 0 | 0 |
| Consolidated Data Center | | 0 | 0 |
| California Health and Human Services Agency Data Center | (|) | () |
| Stephen P. Teale Data Center | (|) | () |
| Data Processing /9 | | 0 | 0 |
| Equipment /10 | | 0 | 0 |
| Other Items of Exp (Specify Below) | | 0 | 0 |
| Total Operating Expense & Equipment | \$ | 0 | \$ 31,000 |

/1 General Expense for Branch @ \$437, and for Depart'l \$442 per position.
/2 Departmental \$102 per position.
/3 Departmental \$954 per position.
/8 Departmental \$332 per position.

| | | | <u>Current Year</u> | <u>Budget Year</u> |
|---|-----------------------------------|--|---------------------|--------------------|
| TOTAL OPERATING EXPENSES AND EQUIPMENT | | | \$ 0 | \$ 31,000 |
| SPECIAL ITEMS OF EXPENSE d/ | | | \$ 0 | \$ 0 |
| PROGRAM ADMINISTRATION | | | \$ 0 | \$ 0 |
| Distributed Admin | | | \$ 0 | \$ 0 |
| TOTAL STATE OPERATIONS EXPENDITURES | | | \$ 0 | \$ 646,000 |
| <u>Source of Funds</u> | <u>Appropriation No.</u> | | | |
| General Fund | Org - Ref - Fund 1730 001 0001 | | \$ 0 | \$ 646,000 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| Reimbursements | 1730 501 0995 | | 0 | 0 |
| Totals | | | \$ 0 | \$ 646,000 |
| LOCAL ASSISTANCE | | | \$ (0) | \$ (0) |
| <u>Source of Funds</u> | <u>Appropriation No.</u> | | | |
| General Fund | Org - Ref - Fund 1730 001 0001 | | \$ 0 | \$ 0 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| | | | 0 | 0 |
| Reimbursements | | | 0 | 0 |
| Totals | | | \$ 0 | \$ 0 |

d/ Special Items of expense must be titled. Please refer to the Uniform Codes Manual for a list of the standardized Special Items of expense objects which may be used.

**DETAIL OF STAFF BENEFITS
AND PERSONAL SERVICES**

| Positions | | Positions | | Salary Range | | Amount | | | | | |
|---|------|-------------|------|--------------|-------|--------|-------|----|---|----|---------|
| | | CY | BY | | | CY | BY | | | | |
| Operations Branch & Enterprise Technology | | | | | | | | | | | |
| Customer Service Specialist - Rg B | PERM | 0.0 | 1.0 | \$ | 2,850 | \$ | 3,465 | \$ | 0 | \$ | 38,000 |
| Tax Technician, Ftb - Rg B | PERM | 0.0 | 10.0 | \$ | 2,632 | \$ | 3,201 | \$ | 0 | \$ | 350,000 |
| Office Tech Typ | PERM | 0.0 | 1.0 | \$ | 2,510 | \$ | 3,050 | \$ | 0 | \$ | 33,000 |
| Tax Program Tech I, Ftb | PERM | 0.0 | 1.0 | \$ | 2,465 | \$ | 2,998 | \$ | 0 | \$ | 33,000 |
| Total Operations Branch & Enterprise Technology | | .0 | 13.0 | | | | | \$ | 0 | \$ | 454,000 |
| Adjust for Part Year Positions | | .0 | .0 | | | | | | | | |
| Net Positions/ PYs before salary savings | | .0 | 13.0 | | | | | | | | |
| | | | | | | | | | | | |
| Total Salaries and Wages | | Positions | .0 | 13.0 | | | | \$ | 0 | \$ | 454,000 |
| | | Part Yr Adj | .0 | .0 | | | | | | | |
| | | P.Y.s | .0 | 13.0 | | | | | | | |

**Schedule of Staff Benefits Costs
FOR FISCAL YEAR 2004/05**

| Staff Benefits | <u>2003/04</u> | <u>2004/05</u> |
|------------------------------|----------------|----------------|
| OASDI /1 | \$ 0 | \$ 27,000 |
| Dental /2 | 0 | 6,000 |
| Health /3 | 0 | 75,000 |
| Retirement /4 | 0 | 64,000 |
| Vision /5 | 0 | 1,000 |
| Medicare /6 | 0 | 6,000 |
| Worker's Comp /7 | 0 | 5,000 |
| Industrial Disability /8 | 0 | 0 |
| Non Industrial Disability /9 | 0 | 0 |
| Unemployment Insurance /10 | 0 | 0 |
| Total Staff Benefits | \$ 0 | \$ 184,000 |

- 1/ For permanent and overtime, 6.2% of net salary.
2/ For permanent, \$500 per net personnel year.
3/ For permanent, \$6,100 per net personnel year.
4/ For permanent, 14.843% of net salary.
5/ For permanent, \$100 per net personnel year.
6/ 1.45% of net salary for permanent.
7/ 1.12% of net salary for permanent.
8/ 0.1% of net salary for permanent.
9/ 0.11% of net salary for permanent.
10/ 12.89% of net salary for temporary help.

FISCAL YEAR 2004/05
SUPPLEMENTAL INFORMATION
(\$ in Thousands)

Identify all proposed items which fit into the categories listed below.

| | | Current Year | Budget Year | Budget Year + One |
|---|--|-------------------------|------------------------|------------------------------|
| <u>Proposed Equipment</u> | | | | |
| | | \$ 0 | \$ 0 | \$ 0 |
| | Total | <u>\$ 0</u> | <u>\$ 0</u> | <u>\$ 0</u> |
| <u>Proposed Contracts</u> (Both external and interdepartmental) | | | | |
| | | \$ 0 | \$ 0 | \$ 0 |
| | Total | <u>\$ 0</u> | <u>\$ 0</u> | <u>\$ 0</u> |
| <u>One-Time Costs</u> | | | | |
| Appropriation No. - Gen Fund | Minor Equipment - Office furniture, etc. | \$ 0 | \$ 0 | \$ 0 |
| 1730 - 001 - 0001 | Minor Equipment - PCs | 0 | 0 | |
| (Analyst - please indicate Appropriation No. if other than Gen Fund) | | | | |
| | Total | <u>\$ 0</u> | <u>\$ 0</u> | <u>\$ 0</u> |
| <u>Future Savings</u> | | | | |
| | | \$ 0 | \$ 0 | \$ 0 |
| | Total | <u>\$ 0</u> | <u>\$ 0</u> | <u>\$ 0</u> |
| <u>Full-Year Cost Adjustments</u> | | | | |
| | | \$ 0 | \$ 0 | \$ 0 |
| | Total | <u>\$ 0</u> | <u>\$ 0</u> | <u>\$ 0</u> |
| <u>Facilities/Capital Costs</u> - indicate one-time or ongoing | | | | |
| | | \$ 0 | \$ 0 | \$ 0 |
| | Total | <u>\$ 0</u> | <u>\$ 0</u> | <u>\$ 0</u> |